IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11205 of 2001

For Approval and Signature:

HONOURABLE MR. JUSTICE B.J.SHETHNA
HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VIJAYPAL SINGH C/O ASSO.OF RAILWAYS & POST EMPLOYEES - Petitioner(s)
Versus
UNION OF INDIA & 3 - Respondent(s)

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Appearance :
MR P.R.Parmar for PH PATHAK for Petitioner(s) : 1,
MS KN VALIKARIMWALA for Respondent(s) : 1 - 4.
SERVED BY RPAD - (R) for Respondent(s) : 2,

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CORAM : HONOURABLE MR. JUSTICE B.J.SHETHNA

and

HONOURABLE MR.JUSTICE MD SHAH

Date : 05/10/2006

ORAL JUDGMENT

(Per : HONOURABLE MR. JUSTICE B.J.SHETHNA)

1. The petitioner has prayed in paragraph 27 A of this petition that:

"This Hon.Court be pleased to issue an order, writ in the nature of mandamus and/or certiorari or other appropriate writ, order or direction declaring the impugned action of the respondents, to issue charge sheet to the petitioner, to conduct departmental enquiry against the petitioner in violation of principles of natural justice and fair play and to impose penalty of removal from service and the order of the appellate authority, to reject the appeal of the petitioner, the order passed by the reviewing authority dated 7-10-1997, as arbitrary, illegal, unjust and violative of Articles 14 and 15 of the Constitution of India and be pleased to quash and set aside the same and direct the respondents to reinstate the petitioner in services, with all consequential benefits with 18% interest."

2. It may be stated that without producing the order of dismissal of appeal passed by the appellate

authority dated 13-12-1995, the petitioner has sought to challenge the same which is not permissible in view of the several judgments of the Honourable Supreme Court.

3. The petitioner was dismissed from service by the Commandant-37 BN, CRPF, Narsinghgarh, Agartala, Tripura, by his impugned order dated 19-8-1995 (Annexure 'F') on the serious charge of remaining absent from duty without prior permission against which he preferred an appeal before the appellate authority which was dismissed on 13-12-1995 as stated in the petition. However, the impugned order of dismissal of appeal is not produced on the record. Remedy of revision before the Director General was available to the petitioner, instead he preferred to challenge the impugned order of dismissal directly before the Honourable Delhi High Court by way of writ petition no.9858/1996 which was disposed of as withdrawn with a liberty to approach appropriate forum for the redressal of his grievances. Thereafter, he filed revision application dated 10-6-1997 before the

Director General, CRPF, New Delhi challenging the impugned order of dismissal dated 19-8-1995 (Annexure 'F') and the order dated 13-12-1995 passed by the Deputy Inspector General, CRPF, dismissing the appeal filed by the petitioner. However, the revision was dismissed by an order dated 7th October, 1997 (Annexure 'J') by the revisional authority-Additional DIGP(Admn.) for IGP, WS, CRPF, only on the ground of gross delay of one and a half years as no sufficient cause was shown for condoning such a gross delay in filing the revision.

4. It appears that thereafter, the petitioner had approached the Central Administrative Tribunal, Ahmedabad Bench, Ahmedabad, by way of O.A.569/1998 which was dismissed on 10-1-2000 by the learned Tribunal on the ground that the petitioner being the member of Armed Forces, it had no jurisdiction. However, the order passed by the Tribunal is not placed on record of this case though it was allowed to be brought on record by way of an amendment which was granted by this Court on 3-3-2003.

5. It appears that after his revision petition was rejected by the revisional authority on 7-10-1997 and his OA was dismissed by the learned Tribunal on 10-1-2000, the petitioner has approached this Court by way of this petition in November, 2001 and challenged the orders of dismissal from service, dismissal of appeal as well as revision without producing the order passed by the appellate authority dismissing his appeal.

6. The petitioner committed misconduct of remaining absent from duty. Therefore, he was dismissed from service by an order dated 19-8-1995 passed by the Commandant-37 BN CRPF, Narsinghgarh, Agartala, Tripura. His appeal was also dismissed by the appellate authority i.e. DIG, CRPF and his revision petition was dismissed by the Additional DIGP(Admn,) for IGP, WS, CRPF, New Mumbai.

7. Mr. Parmar, learned Counsel for the petitioner submitted that the petitioner stays at Ahmedabad and received the impugned orders at Ahmedabad, and therefore, this Court has jurisdiction. As stated

earlier, order passed in appeal by the appellate authority is not on record but the impugned order of dismissal and the order of the revisional authority dismissing his revision are on the record of the case. They are passed at Agartala and New Mumbai respectively and served upon the petitioner at his address at U.P.. When no cause or part of the cause of action has arisen within the territorial jurisdiction of this Court, then there is no question of going into the merits of the case, and accordingly without going into the merits of the case, this petition is dismissed for want of territorial jurisdiction. Rule discharged. No costs.

(B.J.Shethna,J.)

(M.D.Shah,J.)

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